



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 4
 ATLANTA FEDERAL CENTER
 61 FORSYTH STREET
 ATLANTA, GEORGIA 30303-8960

SEP 27 2018

CERTIFIED MAIL 7017 1450 0000 7972 1605
RETURN RECEIPT REQUESTED

The Honorable Robert Reichert
 Mayor of Macon-Bibb County
 700 Poplar Street, 2nd Floor
 Macon, Georgia 31201-3282

Re: Notice of Violation and Opportunity to Show Cause Pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319
 National Pollutant Discharge Elimination System Permit No.: GAS000301

Dear Mayor Reichert:

The U.S. Environmental Protection Agency Region 4, the Georgia Environmental Protection Division, and PG Environmental, contractor to the EPA, conducted a Compliance Stormwater Evaluation Inspection (CSWEI) of the Macon-Bibb County's (County) Municipal Separate Storm Sewer System (MS4) program on February 27 – March 1, 2018. The purpose of the CSWEI was to evaluate the County's compliance with the requirements of Section 301 of the Clean Water Act (CWA), 33 U.S.C. § 1311, the regulations promulgated thereunder at 40 C.F.R. § 122.26, and the County's Phase I Large MS4 National Pollutant Discharge Elimination System Permit, Permit Number GAS000301 (Permit). A copy of the CSWEI report was sent to you on September 6, 2018.

The CSWEI, and subsequent investigative efforts, including an assessment of the County's Storm Water Management Program (SWMP), have revealed that the County failed to comply with several requirements of the Permit and is therefore in violation of Section 301 of the CWA, 33 U.S.C. § 1311. Specifically, the EPA hereby notifies the County, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), of the following findings of violation:

1. **Permit Part 3.3.1.1.a.** states that the permittee must "[p]rovide an inventory and map of MS4 control structures as defined in the SWMP with each annual report. At a minimum, the inventory and map must include catch basins, ditches (miles or linear feet), detention/retention ponds, and storm drain lines (miles or linear feet)."

Observation: The County's GIS-based inventory/map of MS4 structures did not identify all storm sewer system structures located in the MS4 service area. Specifically, representatives from the Engineering Department explained that approximately 30 percent of the City of Macon's geographic area had not been inventoried or mapped. These structures remained unmapped from when the County's and City's MS4 programs were consolidated in 2014 and the two inventories had to be merged into the same format. (CSWEI Observation 1; 2014 and 2017 Permit Part 3.3.1.1.a.; SWMP page 6)

2. **Permit Part 3.3.1.2.a.** states that the permittee must “[c]onduct inspections of the MS4 structures so that 100 percent of the structures are inspected within the 5-year period. The permittee must conduct a percentage of the inspections each year. The MS4 inspections shall be executed in accordance with the schedule contained in the SWMP. Provide the number and percentage of the total structures inspected during the reporting period in each annual report.”

Observation: The County had yet to inventory or map approximately 30 percent of the City of Macon’s geographic area; therefore, the number of total MS4 structures in the County’s entire MS4 was unknown. As a result, the County could not have been conducting inspections so that 100 percent of the structures are inspected within the 5-year period. (CSWEI Observation 2; 2014 and 2017 Permit Part 3.3.1.2.a.; SWMP page 6-7)

3. **Permit Part 3.3.1.3.a.** states that the permittee must “[d]evelop a comprehensive planning document which addresses, in part, areas of new development and redevelopment to reduce pollutants in discharges from the MS4.

Observation: The County’s Comprehensive Plan did not address reducing pollutants in discharges to the MS4 from areas of new development or redevelopment. (CSWEI Observation 4; 2014 and 2017 Permit Part 3.3.1.3.a.; SWMP page 7-8)

4. **Permit Part 3.3.1.4.a.** states that the permittee must “[i]mplement street maintenance and cleaning procedures specified in the SWMP. Documentation on activities conducted during the reporting period, such as litter removal, street sweeping, de-icing material removal, road repair, etc., must be submitted in each annual report. Report details such as the amount of litter removed, miles of street swept, final disposal of waste, etc., and provide documentation in each annual report.”

Observation: The County did not report quantities of material removed from street sweeping activities in its 2016-2017 MS4 Annual Report. (CSWEI Observation 6; 2014 and 2017 Permit Part 3.3.1.4.a.; SWMP page 8)

5. **Permit Part 3.3.1.5.b.** states that the permittee must “[i]mplement the procedures specified in the SWMP to ensure existing structural flood control devices are evaluated during each reporting period to determine if retrofitting the devices for additional pollutant removal is feasible. Provide details in each annual report.”

Observation: The County’s 2016-2017 Annual Report states that no existing flood management projects were evaluated during the reporting period. During the inspection, County representatives stated that they had evaluated approximately half of the 14 County-owned detention ponds for potential retrofits during the current reporting year (2017-2018). However, County representatives stated that the evaluations focused solely on determining if the ponds could be feasibly increased in size. The evaluations did not include assessing the feasibility of retrofitting the ponds for additional pollutant removal by means other than increasing the size (e.g., installing steel grates at the outlet structures for trash/debris removal). Furthermore, the County had not documented these detention pond evaluations. (CSWEI Observation 7; 2014 and 2017 Permit Part 3.3.1.5.b.; SWMP page 9-10)

6. **Permit Part 3.3.1.6.a.** states that the permittee must “[m]aintain and/or update an inventory of municipal facilities with the potential to cause pollution (e.g., water treatment plants, wastewater plants <1.0 MGD, waste transfer facilities) and provide in each annual report.”

Observation: The Parks and Beautification/Solid Waste facility, Bowden Golf Course, and Central City Park are County-owned facilities with the potential to cause pollution that had not been inventoried or assessed for inclusion into the inventory. County representatives also stated that the Macon-Bibb Fire Department operates a training facility; it was unclear what types of activities occur at the facility. (CSWEI Observation 8; 2014 Permit Part 3.3.1.7.a. and 2017 Permit Part 3.3.1.6.a.; SWMP page 10-11)

7. **Permit Part 3.3.1.6.b.** states that the permittee must “[i]mplement the program to control runoff from municipal waste facilities with the potential to cause pollution. The program shall include the facility inspection prioritization, inspection frequency, and inspection documentation protocol as described in the SWMP. Conduct an inspection on 100 percent of the inventoried facilities within the 5-year permit term.”

Observation: County representatives stated that inspections of County facilities with the potential to cause pollution were not documented. As such, the Inspection Team was unable to assess whether inspections were adequately evaluating the facilities for the potential to pollute stormwater, or whether the inspections were occurring at all. The County’s 2016-2017 Annual Report does not include any documentation related to inspections of County facilities with the potential to cause pollution. Additionally, as discussed in Observation 8 of the CSWEI, the County’s inventory of facilities with the potential to cause pollution was incomplete. (CSWEI Observation 10; 2014 Permit Part 3.3.1.7.b. and 2017 Permit Part 3.3.1.6.b.; SWMP page 10-11)

8. **Permit Part 3.3.1.7.b.** states that the permittee must “[i]mplement the program to reduce pollution caused by the municipal use of pesticides, fertilizer, and herbicides as described in the SWMP. If municipal staff performs application of pesticides, fertilizers, and herbicides, ensure they are properly trained by the Georgia Department of Agriculture. Provide documentation of program activities in each annual report.”

Observation: The County does not provide any pesticide application training to Public Works employees or otherwise ensure that they are trained in accordance with Georgia Department of Agriculture requirements. (CSWEI Observation 11; 2014 Permit Part 3.3.1.8.b. and 2017 Permit Part 3.3.1.7.b.; SWMP page 11-12)

9. **Permit Part 3.3.2.2.a.** states that the permittee must “[p]rovide an inventory and map showing the location of all outfalls from the MS4 and the names and location of all waters of the State that receive discharges from those outfalls with each annual report.”

Observation: The City of Macon and Bibb County were identifying any pipe-end which discharged stormwater as an “outfall” regardless of whether it discharged to a receiving water or not. Following the consolidation, the County corrected their understanding of the definition of an outfall through communication with Georgia EPD. At the time of the inspection, the Engineering Department was still working to correctly identify all of the MS4’s outfalls in their GIS-based inventory/map, and it was unclear approximately how many outfalls remained unidentified. Additionally, representatives from the Engineering Department explained that MS4 structures (including outfalls) in approximately 30 percent of the City of Macon’s geographic area had not been inventoried or mapped. These outfalls remained unmapped from when the County’s and City’s MS4 programs were consolidated in 2014 and the two inventories had to be merged into the same format. (CSWEI Observation 12; 2014 and 2017 Permit Part 3.3.2.2.a.; SWMP pages 13)

- 10. Permit Part 3.3.2.3.b.** states that the permittee must “[i]mplement investigative and follow-up procedures when the results of the screening indicate a potential illicit discharge, including the sampling and/or inspection procedures described in the SWMP.”

Observation: The County was not performing immediate investigative and follow-up procedures for potential illicit discharges identified during dry weather screening (DWS). The County employed summer interns to conduct DWS inspections of outfalls. If dry weather flow is observed, the interns were instructed to notify representatives from the Engineering Department who would later perform investigative and follow-up procedures, including sampling. Appendix A (page 4/8) of the SWMP stated that if flow is present during DWS, samples are taken from a field screening kit. However, the County did not provide these field sample kits to the interns or train them to collect DWS samples. (CSWEI Observation 14; 2014 and 2017 Permit Part 3.3.2.3.b.; SWMP page 13-14 and Appendix A)

- 11. Permit Part 3.3.2.3.c.** states that the permittee must “[e]nsure any identified illicit discharges are eliminated. If necessary, implement the enforcement procedures described in the SWMP and in accordance with the Enforcement Response Plan (ERP) in Part 3.3.6 of this permit. Provide information on any enforcement actions taken for illicit discharges....”

Observation: Not all known illicit discharges were documented. Also, the County’s ERP was not approved and was not consulted in response to potential or identified illicit discharges. (CSWEI Observation 16; 2014 and 2017 Permit Part 3.3.2.3.c.; SWMP page 14)

- 12. Permit Part 3.3.2.5.b.** states that the permittee must “[i]mplement the procedures for receiving and responding to complaints related to illicit discharges described in the SWMP. Provide information on each complaint related to IDDE that was received and investigated during the reporting period in each annual report, including its status.”

Observation: The County did not maintain a central database or log of all illicit discharge complaints received from the public. Illicit discharge complaints reported by the public to the Engineering Department by phone and in person are not documented. Only complaints received through See-Click-Fix are documented. (CSWEI Observation 17; 2014 and 2017 Permit Part 3.3.2.5.b.; SWMP page 14-15)

- 13. Permit Part 3.3.3.2.b.** states that the permittee must “[i]mplement a monitoring program for stormwater runoff from industrial facilities, waste facilities, hazardous waste treatment, storage and disposal facilities, as defined in the SWMP. Provide the results of any monitoring conducted during the reporting period in each annual report. This shall include all facilities that the permittee determines are contributing a substantial pollutant loading to the MS4.”

Observation: Representatives from the Engineering Department stated that they had not performed any monitoring activities as the result of industrial facility inspections. The County’s 2016-2017 Annual Report states that no monitoring of stormwater runoff from industrial facilities was conducted during the reporting period. Further, the County did not have any procedures for what types of monitoring activities would be implemented in response to various issues identified during inspections. (CSWEI Observation 21; 2014 and 2017 Permit Part 3.3.3.2.b.; SWMP page 17)

- 14. Permit Part 3.3.3.3.a.** states that the permittee must “[i]mplement the enforcement procedures described in the SWMP and in accordance with the ERP in Part 3.3.6 of this permit if a stormwater violation is noted at an industrial facility that discharges to the MS4. Provide documentation on any enforcement actions taken during the reporting period in each annual report.”

Observation: The County representative responsible for conducting industrial stormwater inspections stated he was unaware of any training on the County’s enforcement procedures for stormwater violations observed at industrial facilities. He stated that he was provided a “ticket book” but doesn’t know if he has the authority to issue citations. According to the County’s 2016-2017 Annual Report, the County had not taken enforcement actions against industrial facilities during the reporting period. (CSWEI Observation 22; 2014 and 2017 Permit Part 3.3.3.3.a.; SWMP page 18)

- 15. Permit Part 3.3.3.4.a.** states that the permittee must “[i]mplement educational activities for industrial facilities. Provide details of any educational activities performed during the reporting period in each annual report.”

Observation: The County’s 2016-2017 Annual Report states that no industrial education was performed during the reporting period. (CSWEI Observation 24; 2014 and 2017 Permit Part 3.3.3.4.a.; SWMP page 18)

- 16. Permit Part 3.3.4.2.a.** states that the permittee must “[i]mplement the site plan review procedures described in the SWMP.”

Permit Part 3.3.4.3.a. states that the permittee must “[i]mplement the construction site inspection program....”

Observation: The County was not issuing Land Disturbing Activity (LDA) permits to or regularly inspecting tertiary construction sites. According to representatives from the Engineering Department, the County required tertiary permittees to sign a soil erosion plan agreement but was not issuing them LDA permits. (CSWEI Observation 25; 2014 and 2017 Permit Part 3.3.4.2.a. and Permit Part 3.3.4.3.a.; SWMP page 20-22)

- 17. Permit Part 3.3.4.3.a.** states that the permittee must “[i]mplement the construction site inspection program to ensure that the structural and non-structural BMPs at construction sites are properly designed and maintained as specified in the Construction General Permits (CGPs).”

Observation: The County’s inspection program: (a) did not routinely conduct comprehensive construction inspections, (b) had not developed or implemented construction site inspection documentation protocol, and (c) did not document the number of construction site inspections. The construction site inspector does not use an inspection report, checklist, or other form to document construction site inspections. (CSWEI Observation 26; 2014 and 2017 Permit Part 3.3.4.3.a.; SWMP page 21)

- 18. Permit Part 3.3.4.3.c.** states that the permittee must “[p]rovide the number of active sites and the number of inspections conducted during the previous reporting period in each annual report.”

Observation: The County does not track the number of construction site inspections conducted. The representatives explained that the number of inspections included in the 2016-2017 Annual Report

(578) was estimated based on the County inspector's labor hours for the reporting period. As described in Paragraph 17 above, the County was not utilizing an inspection report, checklist, or form to document construction site inspections. (CSWEI Observation 27; 2014 and 2017 Permit Part 3.3.4.3.c.; SWMP page 21-22)

19. **Permit Part 3.3.4.4.a.** states that the permittee must "[i]mplement enforcement procedures for E&S [erosion and sediment] violations documented at construction sites during the reporting period as described in the SWMP and in accordance with the ERP in Part 3.3.6 of this permit. Provide documentation on any enforcement actions taken during the reporting period in each annual report, including the number and type (Notice of Violation, Stop Work Order, etc.)."

Observation: The representative from the Engineering Department responsible for construction site inspections and enforcement stated that he uses "verbal stop work orders" to gain compliance from construction site operators. The representative also stated that these verbal enforcement actions were not documented. Additionally, the County does not maintain a tracking mechanism for enforcement actions. The County's 2016-2017 Annual Report states the no enforcement actions were taken against construction sites during the reporting period. (CSWEI Observation 28; 2014 and 2017 Permit Part 3.3.4.4.a.; SWMP page 22)

20. **Permit Part 3.3.7.** states that the permittee must "[i]dentify any impaired waterbodies located within its jurisdictional area, using the latest approved Georgia 305(b)/303(d) List of Waters...which contain MS4 outfalls or are within one linear mile downstream of MS4 outfalls. Also, the pollutant of concern must be identified. The permittee shall propose a monitoring and implementation plan (Plan) addressing each pollutant of concern. The permittee must check annually whether an impaired waterbody within its jurisdiction has been added to the latest 305(b)/303(d) list. Newly listed waterbodies must be addressed in the Plan and the SWMP must be revised accordingly. The permittee must report on all monitoring activities in subsequent annual reports. If a Total Maximum Daily Load (TMDL) containing a wasteload allocation specific to one or more of the permittee's outfalls is approved, then the wasteload allocation must be incorporated into the SWMP. All previous and newly approved TMDLs within the jurisdictional areas must be included in either the proposed Plan or a revision to the existing Plan.

"The Plan shall include:

- Sample location, whether samples are collected instream (i.e., upstream and downstream), from outfalls during wet weather events, or a combination of both locations. Bacteriological samples must be collected instream. If the permittee chooses to conduct outfall sampling and there are multiple outfalls located on an impaired waterbody, then the permittee may choose representative outfalls for sampling in place of sampling all outfalls;
- Sample type, frequency, and any seasonal considerations;
- Implementation schedule to start monitoring for each pollutant of concern (POC);
- Map showing the location of the impaired waterbodies, the monitoring location, and all identified MS4 outfalls located on the impaired waterbodies or occurring within one linear mile upstream of the waterbodies, or a schedule for confirming the location of these outfalls; and
- Description of proposed BMPs to be used to control and reduce the pollutants of concern and a schedule for implementation of these BMPs."

Observation: The County had not assessed if the sampling locations for monitoring impaired waterbodies were representative of the current MS4 area, or whether each impaired waterbody segment that receives discharges from the MS4 was being sampled. (CSWEI Observation 29; 2014 and 2017 Permit Part 3.3.7.; SWMP page 26 & Appendix D)

Observation: The Monitoring Plan did not include a description of proposed BMPs to be used to control and reduce the POCs or a schedule for implementation of those BMPs. (CSWEI Observation 29; 2014 and 2017 Permit Part 3.3.7.; SWMP page 26 & Appendix D)

Observation: The Monitoring Plan did not address each POC for all impaired waterbodies. (CSWEI Observation 29; 2014 and 2017 Permit Part 3.3.7.; SWMP page 26 & Appendix D)

Observation: The County was not sampling at the locations and frequency described in the Monitoring Plan. (CSWEI Observation 29; 2014 and 2017 Permit Part 3.3.7.; SWMP page 26 & Appendix D)

Observation: The County was not collecting bacteriological samples instream at sample locations OR-1 and OR-2. (CSWEI Observation 29; 2014 and 2017 Permit Part 3.3.7.; SWMP page 26 & Appendix D)

Observation: The County was not documenting the analytical methods used for water quality sampling. (CSWEI Observation 29; 2014 and 2017 Permit Part 3.3.7. as required by Permit Part 4.2.2.; SWMP page 26 & Appendix D)

21. **Permit Part 3.3.8.** states that the permittee must “[o]btain stormwater-related training for its employees at least annually.”

Observation: The County does not provide stormwater pollution prevention training to Public Works employees nor does it provide pesticide application training to Public Works employees. (CSWEI Observation 30; 2014 Permit Part 3.3.1.9. and 2017 Permit Part 3.3.8.; SWMP page 27)

Observation: The County had not trained nor required the interns who conduct dry weather screening inspections to perform investigative or follow-up procedures, including sampling procedures. (CSWEI Observation 30; 2014 Permit Part 3.3.2.8. and 2017 Permit Part 3.3.8.; SWMP page 27)

Observation: The industrial facility inspector had not received any industrial stormwater training. (CSWEI Observation 30; 2014 Permit Part 3.3.3.5. and 2017 Permit Part 3.3.8.; SWMP page 27)

Until compliance with the CWA is achieved, the County is considered to be in violation of the CWA and subject to enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. This Section provides for the issuance of administrative penalty and/or compliance orders and the initiation of civil and/or criminal actions.

The EPA requests that representatives of the County contact the EPA within ten (10) business days of receipt of this letter to arrange a meeting in this office to show cause why the EPA should not take

formal civil enforcement action against the County for these violations and any other potential violations, including the assessment of appropriate civil penalties. In lieu of appearing in person, a telephone conference may be scheduled. The County should be prepared to provide all relevant information with supporting documentation pertaining to the violations, including but not limited to, any financial information which may reflect an inability to pay a penalty. The County has the right to be represented by legal counsel.

All information submitted in response to this letter and/or during the show cause meeting must be accompanied by the following certification signed by a duly authorized official in accordance with 40 C.F.R. § 122.22:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Please be aware that the EPA may use information provided during the meeting or telephone conference in any enforcement proceeding related to this matter. Failure to schedule a show cause meeting may result in a unilateral enforcement action against the County. Notwithstanding the scheduling of a show cause meeting, the EPA retains the right to bring further enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited therein or for any other violation of the CWA.

Please contact Mr. Kenneth Kwan, P.E., at (404) 562-9752 or Mr. Sean Ireland at (404) 562-9776 to arrange a show cause meeting or if you have any questions or concerns. Legal inquiries should be directed to Ms. Michele Wetherington, Associate Regional Counsel, at (404) 562-9613.

Sincerely,



Jeaneanne M. Gettle, Director
Water Protection Division

cc: Mr. James A. Capp
Georgia Environmental Protection Division

Ms. Anna Truscynski
Georgia Environmental Protection Division